

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 177

Call to Order: By **SEN. SQUIRES**, on April 15, 2005 at 10:00 A.M.,
in Room 102 Capitol.

ROLL CALL

Members Present:

Sen. Carolyn Squires, Chairman (D)
Sen. Jon Ellingson (D)
Sen. Jeff Essmann (R)
Rep. Alan Olson (R)
Rep. Sue Dickenson (D)
Rep. Robin Hamilton (D)

Members Excused: None.

Members Absent: Rep. Dee L. Brown (R)

Staff Present: Dave Bohyer, Legislative Branch
Britt Nelson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 177, 4/15/2005
Executive Action:

HEARING ON HB 177

Opening Statement by Sponsor:

SEN. CAROLYN SQUIRES, SD 48, MISSOULA opened the hearing on **HB 177**, Revise election procedure.

The first Exhibit is a copy of HB 177 with the additional amendments to be looked at by the Free Conference Committee as well as the amendments which they decided on during the Free Conference Committee. Exhibit 2 is a copy of the tan bill for HB 177. Exhibit 3 is the copy of the grey bill for HB 177.

EXHIBIT(frh81hb0177a01)

EXHIBIT(frh81hb0177a02)

EXHIBIT(frh81hb0177a03)

Mark Simonich, Chief Deputy for Secretary of State Brad Johnson, spoke about HB 177. He explained that it was a cleanup bill for election laws. He covered the amendments which the Secretary of State's Office had brought forth which substantially amended HB 177 to include provisions from another bill, HB 727. He explained that in the melding of the two bills they overreached. They had been trying to deal with over-votes. Their intent was to not count multiple votes in a single race.

The amendment which they added in the Senate was specific in saying over-votes would not count. However, in that process they struck Subsection 4 which held language dealing with how vote counting would take place and that if there were discrepancies the votes would be counted according to rules established by the Secretary of State. After accidentally repealing this with their amendments there was no way for their Office to establish rules which counting boards would follow when doing recounts. It is their opinion that the human element must remain in the vote count.

The amendments which the Office brought before the Conference Committee, he admitted, were fairly broad because they decided that they could clean up the language and differentiate between types of ballots. They also wanted to reinstate the language which would make it necessary to have people look at a ballot if it was rejected by a machine in order to see if they could determine voter intent. This amendment would also allow the Secretary of State to establish rules.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.8}

SEN. ELLINGSON was concerned with under-votes not being counted. He referenced the grey bill, Page 16, Line 13. He wondered if there was an under-vote would that be a vote that has not been cast according to instructions. If so he wondered if it would be set aside and undergo the process put forth by HB 177.

Elaine Gravely, Secretary of State, replied that machines can be set to kick out under-votes and over-votes so that the counting board could look at it to determine intent.

SEN. ELLINGSON followed up asking if the votes from an under-vote would still be counted.

Ms. Gravely responded that they would still be counted on the elections which they had voted on.

Motion: REP OLSON moved that HB 177 BE ADOPTED AS AMENDED.

Discussion:

SEN. ESSMANN instructed the Committee to look at the grey bill, Line 28, Page 5. He thought that the language should be clarified. He felt that the word "continues" should be stricken. He also directed the Committee to Page 16, Line 16 of the grey bill. In this section he explained the use of the word handled.

REP. DICKENSON wanted to know how this bill meshed with the bill which would require paper ballots. She wanted to know if this bill would be in effect until the other bill requiring paper ballots went into effect.

{Tape: 1; Side: A; Approx. Time Counter: 6.8 - 14.4}

Mr. Simonich replied that HB 177 would mesh well with the other bill, which had passed. HB 177 anticipates that the federal government may place requirements on the State to provide direct recording devices for the disabled. This bill would give the Secretary of State's Office the authority to set the procedures for how vote counting would be done in either situation. He also addressed the issue of the word "handled" raised by SEN. ESSMANN. He referred the Committee to Page 14, Section 15 of the bill.

Motion/Vote: SEN. OLSON moved ADOPTION OF SEN. ESSMANN'S AMENDMENTS AND THE PREVIOUSLY PROPOSED AMENDMENTS ON HB 177.
Motion carried unanimously by voice vote.

Motion/Vote: SEN. OLSON moved that HB 177 BE ADOPTED AS AMENDED.
Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 10:20 A.M.

SEN. CAROLYN SQUIRES, Chairman

BRITT NELSON, Secretary

CS/RH/bn

Additional Exhibits:

EXHIBIT ([frh81hb0177aad0.TIF](#))